

**Subcommittee on Superfund, Waste Management, and Regulatory  
Oversight Hearing:**

**“Oversight of Regulatory Impact Analyses for U.S. Environmental  
Protection Agency Regulations.”**

**Wednesday, October 21, 2015, at 10:00 a.m.**

Thank you Subcommittee Chairman Rounds for convening today’s oversight hearing, and thank you to our witnesses for being here to testify. At a time when the U.S. Environmental Protection Agency (EPA) is advancing an unprecedented regulatory agenda on top of mounting court challenges, today’s hearing on regulatory impact analyses (RIAs) is absolutely critical to assessing the integrity of EPA’s tools for developing regulatory actions.

RIAs were designed to provide federal agencies a framework for weighing the costs and benefits of a particular regulatory action and alternatives—prior to issuing a rule. In theory, robust RIAs should improve an agency’s decision-making process and result in efficient actions. However, as witnesses today will testify, the deep flaws in recent EPA RIAs call into question many of EPA’s recent rules. Specifically, testimony today will highlight several deficiencies across EPA RIAs that warrant Congressional oversight, including: an overreliance on alleged benefits that are unrelated to the subject of the rule, such as benefits from reductions in fine particulate matter (PM<sub>2.5</sub>) in

rules addressing other pollutants. Additional flaws include the use of a global estimate of the social cost of carbon to manufacture alleged climate benefits here in the United States and the recurring failure to conduct robust economic analyses of regulatory impacts in accordance with regulatory guidance, executive orders, and statutes designed to protect small businesses as well as state, local, and tribal governments.

These shortcomings reveal a troubling pattern under the Obama EPA—where its tools for developing RIAs are highly speculative and deviate from the long-standing established regulatory process—in an effort to seemingly mold the RIA to fit a predetermined regulatory outcome.

I co-sponsored the Clean Air Act Amendments of 1990 and the Clear Skies Act of 2003, where Congress gave EPA certain authorities to issue regulations. However, the Obama EPA has stepped outside of its legal boundaries and—as demonstrated in today’s hearing—EPA has stepped outside the regulatory process by issuing RIAs with significant gaps. Quite simply, EPA has gone too far, issuing legally vulnerable rules under short timeframes based on unsubstantiated science and incomplete economic analyses.

Indeed, defective RIAs are likely to result in inefficient and overly burdensome regulations, many of which are challenged in the courts. But, by the time these challenges are resolved, often against EPA;

regulated entities have already incurred the costs of compliance with an illegal regulation. If EPA Administrator Gina McCarthy's unconcern for the Supreme Court's determination that the mercury rule was invalid because "investment had been made" is any indication, testimony today will suggest the Agency is similarly disinterested in completing open and robust RIAs to inform regulatory action because by the time challenges surface, EPA will have issued the regulatory action it so desired and forced compliance.

Accordingly, Congress must continue to conduct oversight of EPA RIAs and hold the Agency accountable in order to curb regulatory uncertainty over the true impact of rules and restore integrity to the regulatory process and subsequent actions coming from the EPA.

I ask that my full statement be entered into the record. Thank you.